

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D.C.

ORDER NO. 3040

IN THE MATTER OF:

Served June 19, 1987

Application of RR TRANSPORTATION)
SERVICE, INC., for Temporary) Case No. AP-87-10
Authority to Transport Passengers)
in Charter Operations between)
Points in the Metropolitan District)

By application filed April 28, 1987, RR Transportation Service, Inc., seeks temporary authority to transport passengers, together with baggage in the same vehicle as passengers, in charter operations between points in the Metropolitan District, restricted to transportation in vehicles with a manufacturer's designed seating capacity of 15 passengers or less (including the driver). 1/

Order No. 3015, served May 6, 1987, incorporated herein by reference, generally described the evidence submitted with the application and provided notice of the pending application. The Airport Connection, Inc. (TAC), holder of WMATC Certificate No. 111, timely protested the application. 2/ Protestant asserts that applicant failed to show either that an immediate and urgent need for its proposed operation exists or that existing service is inadequate. TAC also asserts that applicant is unfit to provide charter service

1/ To the extent this application could be interpreted to include transportation between points solely within Virginia, it was dismissed for want of jurisdiction pursuant to Title II, Article XII, Section 1(b) of the Compact, by Order No. 3015, served May 6, 1987.

2/ TAC is authorized, inter alia, to transport passengers in charter operations between Washington National Airport and Dulles International Airport, on the one hand, and, on the other, points in the Metropolitan District, restricted to the transportation of passengers having a prior or subsequent movement by air. TAC is also authorized to transport passengers in charter operations between points in the Metropolitan District, excluding Montgomery County, Md., on the one hand, and, on the other, points in the Metropolitan District excluding Montgomery County, Md.

because applicant has only one vehicle and would be dependent upon other carriers for back-up assistance if its vehicle is out of service.

The standards for temporary authority are set forth in the Compact at Title II, Article XII, Section 4(d)(3), as follows:

To enable the provision of service for which there is an immediate and urgent need to a point or points or within a territory having no carrier service capable of meeting such need, the Commission may, in its discretion and without hearings or other proceedings, grant temporary authority for such service.

In addition, fitness of the applicant is always an issue (see Order No. 1643, served January 24, 1977, at page 3).

RR submitted four letters that were admissible as evidence in support of its application. John DeBernadinis, associate director of the Center for Professional Development, The University of Maryland, College Park, Md., attests that the Center requires "executive van service" on a periodic basis throughout the year. The letter fails, however, to give any indication that the Center has an immediate and urgent need for applicant's proposed service, or that the need, to the extent it exists, cannot be met by existing WMATC certificated carriers.

Mr. Franklin D. Wade, program manager of the ParaTransit Section of the Montgomery County Department of Transportation, states that demand for specialized transportation for the county's elderly, handicapped, and low-income citizens is rapidly becoming greater than the County can accommodate. The County has decided to use private carriers to provide additional service after July 1, 1987. Mr. Wade stated that RR can provide service as needed. However, Mr. Wade does not suggest that his section is in need of additional transportation services before July, or is unable to secure whatever service it may need after July, using existing WMATC carriers.

Mr. Harold O'Flaherty, president of O&R Management Corporation, supports the application by stating that the proposed operations would augment the services of existing transportation providers in the Montgomery County area. While the letter suggests that the addition of RR would increase competition among existing carriers in Montgomery County, there is no indication of immediate and urgent need.

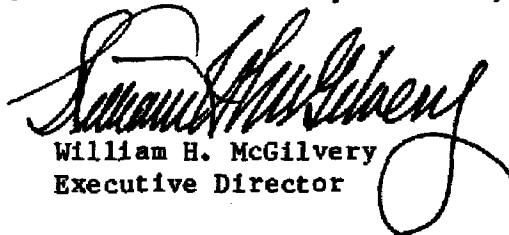
Ms. Kathy Doran, administrative assistant, Sandor Pharmaceuticals Corporation, East Hanover, N.J., states that the corporation holds numerous meetings in the Washington area and that the need for van service has increased due to a larger number of attendees. The letter did not indicate that the corporation has any plans to host

a meeting in the Washington area in the near future. It also does not indicate that existing transportation providers would be unavailable to provide transportation service to the corporation when needed.

After reviewing the evidence described above and in Order No. 3015, we find that the applicant has failed to meet the burden of proof to obtain a grant of temporary authority as required by Title II, Article XII, Section 4(d)(3). Three out of the four letters of support failed to cite specific events with upcoming dates that would require immediate transportation services. One letter indicated that a need exists for transportation services after July 1, of this year. The letter, however, did not suggest that applicant's services would definitely be used if the authority sought is granted, or that existing WMATC certificated carriers were unwilling to or incapable of, providing that service. For these reasons the application of RR Transportation Service, Inc., for temporary authority will be denied.

IT IS SO ORDERED.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS WORTHY, SCHIFTER, AND SHANNON:



William H. McGilvery
Executive Director

